

**MEMO ENDORSED**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SHENZHEN LONG KING LOGISTICS CO., LTD.,

Plaintiff,

Case No. 22-CV-10682 (VEC)

-against-

**NOTICE OF DEFENDANTS'  
MOTION TO VACATE**

HOP WO INT'L TRADING, INC. and YAOHUA LI,

Defendants.  
-----X

PLEASE TAKE NOTICE that upon the Declaration of Yaohua Li, all exhibits attached hereto, the accompanying Memorandum of Law in support of this Motion, and all pleadings and proceedings herein, Defendants, Hop Wo Int'l Trading, Inc. and Yaohua Li, by and through their attorneys, The Law Firm of Hugh H. Mo, P.C., will and hereby do move this Court at Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, New York 10007-1312, before the Honorable Valerie E. Caproni, on such date and time specified by the Court, for an Order, pursuant to Federal Rules of Civil Procedure 55(c) and the instruction of the Court to Show Cause (Dkt. No. 23), granting a Motion to Vacate the Clerk's Certificate of Default (Dkt. Nos. 18-19) and denying Plaintiff's Motion for Default Judgment (Dkt. No. 22).

PLEASE TAKE FURTHER NOTICE that answering papers, if any, shall be served in accordance with the Court's Order dated February 27, 2023. (Dkt. No. 23.)

Dated: New York, New York  
March 8, 2023

THE LAW FIRM OF HUGH H. MO, P.C.

By: /s/  
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Plaintiff's motion for default judgment is DENIED. The Second Circuit has established a "strong preference for resolving disputes on the merits," *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 129 (2d Cir. 2011), and emphasized that "defaults are generally disfavored and are reserved for rare occasions," *Enron Oil Corp. v. Diakuhara*, 10 F.3d 90, 96 (2d Cir. 1993). Defendants have timely responded to the motion for default judgment and demonstrated that the delay in answering was not willful and the existence of possibly meritorious defenses; the Court further finds that Plaintiff will not be prejudiced by denial of the motion. *See Cap. Records, Inc. v. Thomas*, 2007 WL 2071553, at \*2 (E.D.N.Y. July 16, 2007) (citing *Meehan v. Snow*, 652 F.2d 274, 277 (2d Cir. 1981)) (setting forth factors to consider in deciding whether to grant a motion for default judgment).

The Court has accepted the English language affidavit from Yaohua Li although Mr. Li represents that he does "not speak, read or write English fluently." Dkt. 33 ¶ 3. It is well-settled that a translated affidavit must be accompanied by documents sufficient to establish that the declarant knew what he was signing, such as a certified translation of the declaration or an affidavit from the translator. *See Mattis v. Zheng*, 2006 WL 3155843, at \*1 n.1 (S.D.N.Y. October 27, 2006). As this litigation progresses, any English-language affidavits from Mr. Li must be accompanied by the appropriate documentation in light of his inability to read English.

The parties are ordered to appear for an initial pretrial conference on **March 24, 2023, at 10:00 A.M.** in Courtroom 443 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York, 10007. The parties' pre-conference submissions, described at Dkt. 5, are due on **March 16, 2023**. Defendants' answer is due on **March 16, 2023**. The Clerk of Court is respectfully directed to vacate the certificates of default at Dkts. 18 and 19 and to terminate the open motion at Dkt. 22.

SO ORDERED.



03/09/2023

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE